

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

KRAFT FOODS GLOBAL, INC., THE)	
KELLOGG COMPANY, GENERAL)	
MILLS, INC., and NESTLÉ USA,)	
INC.,)	
)	No. 1:11-cv-08808
Plaintiffs,)	Judge Steven C. Seeger
v.)	
)	
UNITED EGG PRODUCERS, INC.,)	
UNITED STATES EGG)	
MARKETERS, INC., CAL-MAINE)	
FOODS, INC., and ROSE ACRE)	
F FARMS, INC.)	
)	
Defendants.)	

**DEFENDANTS' OBJECTIONS TO PLAINTIFFS' OPENING STATEMENT
EXHIBITS**

Defendants United Egg Producers, Inc., United States Egg Marketers, Inc., Cal-Maine Foods, Inc., and Rose Acre Farms, Inc. submit these Objections to Plaintiffs' Opening Statement Exhibits. Defendants reserve their rights to further object to these and the other documents Plaintiffs propose to use during trial.

PX	Description	Defense Objection(s)
18	This is an email amongst personnel who worked at Michael Foods (an alleged coconspirator) from September 2008. The email's title is "antitrust," and it is regarding a Wall Street Journal article from September 2008, titled "Federal Prosecutors Probe Food-Price Collusion."	First , Plaintiffs have not disclosed the sponsoring witness who will testify as to the document. Second , Plaintiffs have indicated that they propose to redact the title of the WSJ article and the content related to the federal investigation.

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		<p>But, from the email's limited content – "This is why I am very sensitive on comparing (actual discussions) with competitors at this time" – it is not clear whether the person who wrote the email was referring to the federal investigation or any other part of the article.</p> <p><i>Third</i>, given the above, Plaintiffs would be inviting the jury to speculate what the author was referring to with the comment in the cover email.</p>
111	This is an email amongst personnel who worked at Michael Foods, dated March 14, 2006, which is before Michael Foods joined the alleged conspiracy.	This document is not admissible as a coconspirator statement because it predates Michael Foods' alleged entrance into the conspiracy, which occurred in June 2006. It is otherwise hearsay.
330	This is a letter from Don Bell to Al Pope, an employee of UEP, dated March 17, 1995.	<p>As discussed with the Court, this document predates the alleged conspiracy by approximately three years. At the time of this letter (1995), Don Bell was not employed by UEP. Instead, he was a "poultry specialist" with the University of California.</p> <p>In this Court's order dated September 19, 2023 (D.E. #298), the Court indicated that it was "struggling" to see the</p>

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		<p>relevance of pre-conspiracy communications from Don Bell, and identified a handful of questions to guide the analysis. Defendants answer them below.</p> <p>In addition, Defendants are aware of no witness who will testify to reading this document. Second, there is no witness who will testify that they received the letter from Don Bell. And third, no witness will testify that, after reading this, they said in effect, “Let’s do what Bell said.”</p>
576	This is an email from Gene Gregory to more than a dozen individuals (including persons not alleged to be coconspirators) from September 2008, regarding the Wall Street Journal article discussed above with Plaintiffs’ Exhibit 18.	<p>Defendants understand that Plaintiffs do not intend to offer the article in opening.</p> <p>Defendants believe a redacted version of the email could be utilized in opening statement and would propose the following additional modifications:</p> <ol style="list-style-type: none"> 1. The entirety of the sentence beginning, “This call came asking” be redacted. 2. Mr. Wilkes’ statement should be redacted as it is double hearsay.
754	Document titled “What Happens if 100% Committed is Changed”.	Plaintiffs do not have a witness who will testify to having

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		personal knowledge of the document and its contents. Defendants understand that Plaintiffs may seek to offer this document through their econometrics expert, Professor Baye, but testimony by Professor Baye regarding this document's contents should be barred by this Court's order dated September 19, 2023 (D.E. #300).
755	Email message transmitting Plaintiffs' Exhibit 754.	In addition to the objections relating to 754 above, it is not within the list of materials that Professor Baye relied upon in formulating his opinions.

Dated: October 16, 2023

Respectfully submitted,

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